APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,856	08/08/2004	David Bogart Dort	VRBA.P016.A	7980

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EXAMINER
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3694	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/710,856	DORT, DAVID BOGART
	Examiner	Art Unit	
	BRIAN FERTIG	3694	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>08 August 2004</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-26</u> is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-26</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____.
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   Paper No(s)/Mail Date. _____.
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)   5) ☐ Notice of Informal Patent Application
      Paper No(s)/Mail Date _____.   6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claims 1, 2 and 4 are objected to because of the following informalities.
Appropriate correction is required.

<u>With respect to claim 1</u>

This claim recites said outsize asset, which finds no antecedent basis
within the claims. It is assumed, for purposes of examination below to be
said outside asset. This claim also recites 'an exchange module capable
of capable of'. It is assumed that the second recitation of 'capable of' was
unintended and is not given any patentable weight for the purposes of
examination below.

<u>With respect to claim 2</u>

This claim recites 'said electronic first asset set catalog' which finds no
clear antecedent basis in the claims. For the purposes of examination
below it is assumed that 'said electronic first asset set catalog' finds its
basis in the result produced by cataloging a first set of one or more assets.

<u>With respect to claim 4</u>

This claim recites 'The method as recited in claim 1' Note that claim 1,
recites a system. For the purposes of examination below, it is assumed
that applicant intends claim 4 to depend from claim 1 and that applicant
intended to recite 'the system as recited in claim 1'.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

<u>With respect to claim 13</u>

This claim recites 'said data', but such a recitation is unclear as to whether it is

meant to rely on ' first data that represents assets', ' second data

representational of outside assets', a combination of these, or whether a third

new set of data is intended. The specification provides no guidance as it does not

contain a description of the 'verification structure' to which the claim directs its

limitation. As such, no reasonable assumption can be made as to the meaning of

'said data', rendering the claim indefinite. Because no reasonable assumption as

to the meaning can be made, the claim cannot be treated further on the merits.

<u>With respect to claim 14-16</u>

These claims are rejected for incorporating the subject matter rejected above and

are also not further treated on the merits below.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent Application Publication 2002/0052788 for Perkes (Perkes).

With respect to claim 1

Perkes teaches:

A system implemented by one or more computational devices for

conducting a transaction over a network comprising:

a data storage device (i.e. database), said data storage

device including electronic representations of at least one set of

owned assets' (i.e. digital coupons, pay-per-view content) said at

least one set of owned assets including assets other than currency

(see par 6, 25, and 34) ;

a module executing a set of instructions to map an outside

asset or commodity (i.e. content) to said at least one set of owned

assets (see par 34, note that the content is mapped to the coupon

is so far as a credit/coupon cost for the viewing of the content is

maintained);

an operative connection (i.e. Internet, see par 25) to both a

first electronic agent (i.e. participating retailer appliance, see par

25) looking to dispose of said outside asset and a second

electronic agent (i.e. user appliance, see par 25) looking to secure

said outsize asset or commodity in exchange for an exchange

module (i.e. User operation script) capable of capable of securing

a transition of said outside asset or commodity, by providing at

least a portion of said at least one set of owned assets as security

for said exchange (see par 34), wherein said exchange module

obtains approval from said second electronic agent via said

network to use said at least one set of owned assets as security for

said exchange, before said exchange occurs (see par 34, 44 and

47, note that participating retailer confirms the users expenditure of

coupons).

With respect to claim 2

Perkes teaches:

A method for investment comprising the steps of:

cataloging a first set of one or more assets and configuring

said catalog into electronic form (i.e. cataloging coupons earned in

Sponsor's database, see par 24);

allowing said electronic first asset set catalog to be

inspected over a network (i.e. displaying current amount of coupons

in status bar, see par 34);

when selected, linking a second set of assets (i.e. pay-per-

view content) represented in electronic form to said first set, such

that the owner of said second set of assets has correlated the value

of said second set of assets to said first set of assets with a
normalization constant (see par 34, note that participating retailer
sets cost of viewing pay-per-view content).

<u>With respect to claim 3</u>

Perkes teaches:

The method as recited in claim 2 (see rejection of claim 2 above) wherein
said first set of assets and said second said of assets are not currency
(i.e. digital coupons and pay-per-view content, see par 6 and 34).

<u>With respect to claim 4</u>

Perkes teaches:

The method as recited in claim 1 (see rejection of claim 1 above) wherein
said at least one set of owned assets is not currency. (i.e. digital coupons,
pay-per-view content, see par 6 and 34)

<u>With respect to claim 5</u>

Perkes teaches:

The method as recited in claim 2 (see rejection of claim 2 above) further
including the step of correlating said first set of assets and said second set
of assets to a reference value. (see par 34, note that the content is
mapped to the coupon is so far as a credit/coupon cost for the viewing of
the content is maintained)

<u>With respect to claim 6</u>

Perkes teaches:

The method as recited in claim 5 (see rejection of claim 5 above) wherein said reference value is not currency-tied. (see par 34, note that the cost is specified in terms of coupons)

With respect to claim 7

Perkes teaches:

The method as recited in claim 5 (see rejection of claim 5 above) wherein said reference value is located on the same host system that includes access to said second set of assets (see par 25, note that both a single server and multiple servers are envisioned).

With respect to claim 8

Perkes teaches:

The method as recited in claim 5 (see rejection of claim 5 above) wherein said reference value is not located on the same host system that includes access to said second set of assets. (see par 25, note that both a single server and multiple servers are envisioned).

With respect to claim 9

Perkes teaches:

An improved transaction and investment system including:

a computational device (i.e. Appliances, see par 25) linked to a network (i.e. computer network, see par 25) through a screening system, said screening system including at least one CPU and

implementing an executable screening program (i.e. Appliance in combination with program software, see par 33);

electronic data storage configured to store first data that represents assets (i.e. database, see par 25);

a verification structure implemented with a computer and connected to a network that is configured to verify the existence and identification of said assets represented by said first data (i.e. Program Sponsor's server, see par 42, note the server stores the balance of coupons);

wherein said computational device loads said first data representational of said assets in response to a request received over said network and through said screening system (i.e. appliance in combination with program software loads coupon balance for display on status bar, see par 33-34) and correlates said first data representational of assets to second data representational of outside assets and said verification structure confirms that both said sets of data are properly correlated to said respective assets (i.e. the coupon cost relates the coupons to the pay-per-view content, see par 34).

<u>With respect to claim 10</u>

Perkes teaches:

The transactional and investment system as recited in claim 9 (see rejection of claim 9 above), wherein said data representative of assets consists of sets of individually owned assets (see par 30-31, note that the coupons may be earned by individuals).

<u>With respect to claim 11</u>

Perkes teaches:

The transactional and investment system as recited in claim 9 (see rejection of claim 9 above), wherein said data representative of assets consists of individually owned asset sets and combinations of said sets (see par 30-31, note that both individual accounts and sub accounts are taught).

<u>With respect to claim 12</u>

Perkes teaches:

The transactional and investment system as recited in claim 9 (see rejection of claim 9 above), wherein said data representative of assets consists of combinations of individually owned asset sets (see par 30-31, note that both individual accounts and sub accounts are taught).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 17-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Perkes in view of US Patent 5,878,138 to Yacobi (Yacobi).

With respect to claim 17

Perkes teaches:

> The transactional and investment system as recited in claim 9 (see
>
> rejection of claim 9 above), but does not explicitly teach wherein said first
>
> data includes an identifier that uniquely corresponds to a single asset.

Yacobi teaches:

> wherein said first data includes an identifier that uniquely corresponds to a
>
> single asset (see col 5, lines 3-15, note that a unique certificate is issued
>
> to each user, that each asset is signed by the issuer, and that the assets
>
> are not transferable. Note further that the signature applied to each asset
>
> uniquely identifies the asset to the extent that it may only be used a single
>
> user and is non-transferable.).

It would have bee obvious to one having ordinary skill in the art at the time of

applicant's invention to have provided the electronic coupons and program

software Perkes with the signature, non-transferable, and fraud detection

features taught by Yacobi in order to authenticate the funds, prevent transfer of

the funds between users, and prevent fraud as taught explicitly by Yacobi (see

col 5, lines 44-56, col 6, lines 15-20)

With respect to claim 18

Perkes in view of Yacobi teaches:

> The transactional and investment system as recited in claim 17 (see
> rejection of claim 17 above), wherein said verification system is configured
> to notify said computational system if an asset has been improperly used
> (see Yacobi col 6, lines 15-41).

(see rationale supporting obviousness and motivation to combine of claim 17
above)

With respect to claim 19

Perkes in vies of Yacobi teaches:

> The transactional and investment system as recited in claim 18 (see
> rejection of claim 18 above), wherein said misuse includes a second
> identification of said asset (i.e. double spending, see Yacobi col 6, lines
> 25-27).

(see rationale supporting obviousness and motivation to combine of claim 17
above)

With respect to claim 20

Perkes teaches:

> The transactional and investment system as recited in claim 9 (see
> rejection of claim 9 above), but does not explicitly teach wherein said first
> data representative of assets is located on a solid-state storage device.

Yacobi teaches:

> wherein said first data representative of assets is located on a solid-state
>
> storage device (see col 5, lines 17-28).

It would have been obvious to one having ordinary skill in the art at the time of

applicant's invention to have provided Perkes with the teaching of an electronic

wallet stored on a smart card in order to provide user with a device that is small

and portable as taught explicitly by Perkes, see col 5, lines 17-18)

With respect to claim 21

Perkes in view of Yacobi teaches:

> The transactional and investment system as recited in claim 20 (see
>
> rejection of claim 20 above), wherein said first data is only accessible if a
>
> member has their solid-state storage device placed into a specialty
>
> networked device (i.e. ATM) operatively connected to said computational
>
> device (see Yacobi col 5, lines 29-56, note that the transactions involves
>
> downloading the electronic assets from the electronic wallet to the
>
> recipient. As such, suggestion of an ATM fairly suggests that the solid
>
> state device containing the electronic wallet be inserted into the specialty
>
> network device)

(see rationale supporting obviousness and motivation to combine of claim 20

above)

With respect to claim 22

Perkes in view of Yacobi teaches:

The transactional and investment system as recited in claim 21 (see

rejection co claim 21 above), wherein said system includes multiple

specialty networked devices (see Yacobi col 5, lines 29-43, note that the

suggestion of an ATM connected to an ATM netowrk fairly suggests

multiple specialty networked devices. See also Perkes par 25 teaching

multiple Appliances).

(see rationale supporting obviousness and motivation to combine of claim 20

above)

With respect to claim 23

Perkes in view of Yacobi teaches:

The transactional and investment system as recited in claim 21 (see

rejection of claim 21 above), wherein said specialty networked device is a

kiosk with ports for said solid-state device (see Yacobi col 5, lines 29-43,

note that the suggestion of an ATM connected to an ATM netowrk fairly

suggests a kiosk with ports.).

(see rationale supporting obviousness and motivation to combine of claim 20

above)

With respect to claim 24

Perkes in view of Yacobi teaches:

The transactional and investment system as recited in claim 20 (see

rejection of claim 20 above), wherein at least part of the memory of said

solid-state storage device cannot be rewritten once said first data

representation has been loaded into said memory (i.e. ROM, see Yacobi

col 8, lines 39-49).

(see rationale supporting obviousness and motivation to combine of claim 20

above)

<u>With respect to claim 26</u>

Perkes in view of Yacobi teaches:

The transactional and investment system as recited in claim 9 (see

rejection of claim 9 above), wherein said first data representative of assets

is located on an application specific integrated circuit with a reduced

instruction set processor (i.e. IC, see Yacobi col 8, lines 39-49, note that

the rudimentary nature of the IC implementation fairly suggests a reduced

instruction set processor. Note further that all processors have a reduced

instruction set to the extent that no single processor is deigned to process

every possible instruction set. For example, a compiler is necessary to

translate computer programs into the limited set of instructions understood

by the processor for which the compiler is designed).

(see rationale supporting obviousness and motivation to combine of claim 20

above)

8.   Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perkes

in view of Yacobi and in further view of US Patent 5,499,295 to Cooper (Cooper).

<u>With respect to claim 25</u>

Perkes in view of Yacobi teaches:

> The transactional and investment system as recited in claim 21 (see
>
> rejection of claim 21 above), but does not explicitly teach wherein said
>
> solid-state storage device cannot be accessed if said least at non-
>
> writeable part of said storage device is rewritten to

Cooper teaches:

> wherein said solid-state storage device cannot be accessed if said least at
>
> non- writeable part of said storage device is rewritten to (see col 9, lines
>
> 54-col 10, line 7, note that if the features are updated without
>
> authorization, the cecksum will fail)

It would have been obvious to one having ordinary skill at the time of applicant's

invention to have provided the ROM taught by Yacobi with the ROM checksum

feature taught by Cooper in order to prevent unauthorized program changes as

taught explicitly by Cooper (see col 9, line 67-col 10, line 1)

Inquiry

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRIAN FERTIG whose telephone number is (571)270-

5131. The examiner can normally be reached on Monday - Friday 8:30am to 5:00pm

EST.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammell can be reached on (571) 272-6712. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

10.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.F./

/Mary Cheung/
Primary Examiner, Art Unit 3694